

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE TENNESSEE

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OFFICE OF THE
EXECUTIVE SECRETARY

IN RE: COMPLAINT OF XO TENNESSEE, INC.
AGAINST BELLSOUTH TELECOMMUNICATIONS,
INC.

DOCKET NO. 01-00868

COMPLAINT OF ACCESS INGEGRATED
NETWORKS, INC. AGAINST BELLSOUTH
TELECOMMUNICATIONS, INC.

Deposition of:

MICHAEL SISK

Taken on behalf of ITC^DELTACOM

January 14, 2002

VOWELL & JENNINGS, INC.
Court Reporting Services
328 Washington Square Building
222 Second Avenue North
Nashville, Tennessee 37201
(615) 256-1935

1 **APPEARANCES:**
2 FOR ITC^DELTACOM:
3 HENRY WALKER
4 Attorney at Law
5 Nashville, Tennessee
6 and
7 NANETTE EDWARDS
8 Attorney at Law
9 Huntsville, Alabama
10 FOR BELLSOUTH TELECOMMUNICATIONS, INC.:
11 PATRICK TURNER (BY PHONE)
12 Attorney at Law
13 Atlanta, Georgia
14 and
15 GUY M. HICKS
16 Attorney at Law
17 Nashville, Tennessee
18 FOR THE OFFICE OF THE STATE ATTORNEY GENERAL:
19 CHRIS ALLEN
20 Attorney at Law
21 Nashville, Tennessee
22 Also Present:
23 PAUL T. STINSON
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I N D E X

WITNESS: MICHAEL SISK

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1 The deposition of MICHAEL SISK,
2 taken on behalf of ITC^DELTACOM, on the 14TH day
3 of January, 2002, in the offices of Boulton,
4 Cummings, Conners & Berry, Suite 1500, 414 Union
5 Street, Nashville, Tennessee, for all purposes
6 under the Tennessee Rules of Civil Procedure.

7 The formalities as to notice,
8 caption, certificate, et cetera, are waived. All
9 objections, except as to the form of the
10 questions, are reserved to the hearing.

11 It is agreed that James L. Vowell,
12 being a Notary Public and Court Reporter for the
13 State of Tennessee, may swear the witness, and
14 that the reading and signing of the completed
15 deposition by the witness are waived.

16

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18 * * *

19 MICHAEL SISK

20 was called as a witness, and after having been
21 first duly sworn, testified follows:

22

23

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25

1 E X A M I N A T I O N

2 BY MR. WALKER:

3 Q. State your name and what you do for a
4 living.

5 A. Michael Sisk, assistant vice president
6 for BellSouth.

7 Q. Describe your current job duties at
8 BellSouth.

9 A. I have responsibility for the mid-
10 market segment of customers in Tennessee and
11 Kentucky.

12 Q. How long have you held -- how long have
13 you had those particular duties?

14 A. Three years.

15 Q. What is your relationship within the
16 corporate hierarchy to the previous witness,
17 Robin Porter?

18 A. Robin works for a senior manager who
19 works for me.

20 Q. Who is that senior manager?

21 A. Dana Norman.

22 Q. So you're responsible for all mid-
23 market business in two states: Tennessee and
24 Kentucky?

25 A. That's right.

1 Q. Who is Scott Davis?

2 A. Scott Davis is a direct report of mine

3 that is my competitive assessment manager.

4 Q. So he reports to you?

5 A. That's right.

6 Q. And what is his job description?

7 A. His job description is to understand

8 and help us appropriately compete in the

9 marketplace.

10 Q. When you say "appropriately," do you

11 mean from a legal and regulatory standpoint as

12 well as -- does the term appropriate include

13 legal and regulatory concerns?

14 A. Scott is not a legal or regulatory

15 expert.

16 Q. He's not?

17 A. No.

18 Q. So what do you mean when you say

19 "appropriate"?

20 A. Scott is the conduit between those kind

21 of entities and my people.

22 Q. So if you had a regulatory question

23 would you go to Scott?

24 A. No.

25 Q. To whom would you go?

1 A. A regulatory question? Depending on
2 which one -- what kind it was, but generally to
3 Charlie Howorth.

4 Q. If Robin Porter had a regulatory
5 question, do you know to whom she should go?

6 MR. TURNER: Objection.

7 MR. WALKER: Do you want to state
8 the ground, Patrick, for the record?

9 MR. TURNER: Henry, I'm having a
10 hard time hearing after my objection.

11 MR. WALKER: Do you want to state
12 the basis for your objection?

13 MR. TURNER: Hello?

14 MR. WALKER: Oh, I'm sorry. Is
15 that better?

16 MR. TURNER: I can hear you now.

17 MR. WALKER: My question was,
18 within the BellSouth hierarchy, to whom is
19 Robin Porter supposed to go if she has a
20 question about a regulatory matter. You've
21 entered an objection. Do you want to state the
22 basis of it for the record?

23 MR. TURNER: I'm sorry, you've
24 rephrased it that way, I have no objection to
25 that. I understood your question to simply be

1 where would Robin Porter go if she had a
2 question, and I thought that was speculation.
3 The way you've rephrased it, I don't have a
4 problem with it.

5 BY MR. WALKER:

6 Q. Mr. Sisk?

7 A. What is the question?

8 Q. The question is to whom is she supposed
9 to go within the BellSouth hierarchy if she has
10 a regulatory question?

11 A. With any question, Robin would go to
12 her manager.

13 Q. Who would that be?

14 A. Dana Norman.

15 Q. If she had a question about the
16 operation of the BellSouth Select program, to
17 whom would she -- to whom should she go?

18 A. As I said, with any question I would
19 direct somebody at that level to their manager.

20 Q. Are you familiar with the BellSouth
21 Select program?

22 A. Yes.

23 Q. Just tell us, Mr. Sisk, what is your
24 understanding of what the BellSouth Select
25 program is and how it works.

1 A. BellSouth Select program is a program
2 that rewards BellSouth customers with points,
3 like a Frequent Flier program, for business
4 they do with BellSouth.

5 Q. How does it reward them?

6 A. Through accrual of points.

7 Q. How do you earn points?

8 A. Through regulated and unregulated
9 spends with BellSouth.

10 Q. How long has the BellSouth Select
11 program been going on in Tennessee?

12 A. I'm not sure.

13 Q. Has it been going on throughout your
14 three-year tenure as the -- in your current
15 position?

16 A. I don't believe the entire tenure, no.

17 Q. So it was introduced while you had your
18 current job?

19 A. I believe so, but I'm not sure.

20 Q. Have you ever had any training or any
21 educational sessions about the BellSouth Select
22 program and how it operates?

23 A. No.

24 Q. On what do you base your knowledge of
25 how the BellSouth Select program operates?

1 A. My familiarity with the program and
2 some, what I'd call day-in-the-life, you know,
3 kind of familiarity. I have not been to a
4 class on BellSouth Select.

5 Q. Have you read materials describing the
6 program?

7 A. I'm sure I have, yes.

8 Q. Do you know -- for example, can you
9 tell us for what points can be -- when one
10 redeems points under the BellSouth Select
11 program, what does one get?

12 MR. TURNER: Henry, again I'm
13 going to object. You haven't put a time frame
14 out.

15 MR. WALKER: I'm just asking for
16 the witness' -- I'm asking for whatever answer
17 he wants to give me in whatever time frame he
18 wants to put on it.

19 THE WITNESS: Can you rephrase the
20 question?

21 BY MR. WALKER:

22 Q. If you're in the BellSouth Select
23 program and you redeem points, can you give me
24 some examples of what you can redeem the points
25 for?

1 A. You can redeem them for -- there is a
2 catalog that I know contains products, I
3 believe, and you've also been able to redeem
4 them as a check, for a check.

5 Q. A check from whom? Is it a check from
6 BellSouth Select?

7 A. I don't know exactly who writes the
8 check.

9 Q. But it's a check that can be cashed?

10 A. I believe so.

11 Q. In other words, you can redeem the
12 points for dollars?

13 A. Yes, that's my understanding.

14 Q. If you had any questions about the
15 BellSouth Select program, who would you go to?

16 A. If I were asking, myself, I would go to
17 a marketing contact in Atlanta.

18 Q. Named -- if you had to pick up the
19 phone right now, Mike, who would you call?

20 A. I would probably look in the directory,
21 I'll be honest with you.

22 Q. You're not that familiar with the
23 BellSouth Select program, are you?

24 MR. TURNER: Object to the form.

25 BY MR. WALKER:

1 Q. Do you consider yourself to be
2 well-versed on the BellSouth Select program?
3 A. In terms of a working knowledge?
4 Q. Yes a working knowledge.
5 A. I do believe I have a working knowledge
6 of BellSouth Select.
7 Q. Can you describe, for example, how the
8 BellSouth Select program gives repair escala-
9 tion to its members? Are you familiar with
10 that aspect of the program?
11 A. I'm familiar with an aspect of the
12 program related to that. I, again, don't know
13 the intricate details of the process, but I am
14 aware that there is a BellSouth Select service
15 manager that relates back to repair.
16 Q. And is that supposed to be a repair
17 escalation that gives you repairs more quickly
18 than you would get otherwise?
19 A. No.
20 Q. Well, then what's the point of it?
21 A. My understanding is we have service
22 managers in place across the business, and this
23 is a designated service manager for partici-
24 pants in the Select program like other service
25 managers that we have in the business.

1 Q. Have you ever sold BellSouth Select?
2 Have you ever offered BellSouth Select to
3 customers?
4 A. Personally?
5 Q. Personally.
6 A. No.
7 Q. Would the same person handle a repair
8 escalation for a BellSouth Select customer as
9 would handle a repair escalation for a
10 non-BellSouth Select customer? If you don't
11 know --
12 A. I believe so.
13 Q. Okay. Have you ever had any
14 conversations with Mr. Howorth about the
15 regulatory aspects of BellSouth Select?
16 A. No.
17 Q. Do you recall -- never mind.
18 You were identified by BellSouth as the
19 BellSouth manager responsible for the sales
20 channel involved in the attempted sale that is
21 the subject of the complaint filed by XO. And
22 that was the sales offer made by Robin Porter.
23 I'm passing to you the same e-mail, Patrick,
24 that was shown to Ms. Porter earlier, and I'll
25 just ask you, Mr. Sisk, have you seen that

1 before?

2 A. Yes.

3 Q. Was that sale -- to your knowledge, is
4 there anything about that sale that was not in
5 accordance with BellSouth's procedures which
6 were in effect at that time? In other words,
7 when she made that sales offer, did she make it
8 within the guidelines and program tiers that
9 were in effect at that time in BellSouth?

10 A. The guidelines and parameters, no.

11 Q. She did not? What was wrong with that
12 sales offer that was outside the guidelines and
13 parameters?

14 MR. TURNER: Henry, I'm just going
15 to ask you to clarify -- there is a couple of
16 negatives, notes and things. Can we just
17 clarify what he intended to answer and then go
18 from there?

19 BY MR. WALKER:

20 Q. Yes. Let me rephrase it.

21 Mr. Sisk, what I'm getting at is when
22 Robin Porter made that offer, was she making an
23 offer as she had been trained to do by
24 BellSouth and making an offer that she was
25 authorized to make, by BellSouth?

1 A. Let me change my answer. Yes.

2 Q. Would she be authorized to make such an
3 offer today?

4 A. No.

5 Q. Why not?

6 A. Because we have specifically told and
7 trained our people not to characterize any
8 offer with three months or any months or any
9 kind of free service.

10 Q. Well, if such an offer were being made
11 today, what would you get other than the free
12 service? I mean, would there be something else
13 offered in lieu of the free service?

14 MR. TURNER: Henry, I'm going to
15 object and ask you, you're speaking hypothet-
16 ically or are you asking him if there is some
17 offer today?

18 MR. WALKER: Thank you, Patrick.

19 BY MR. WALKER:

20 Q. Do you know whether or not BellSouth
21 Select is being marketed today in any form?

22 A. BellSouth Select is a continuing
23 product, yes.

24 Q. And today, if I sign up for BellSouth
25 Select, would I be eligible hypothetically to

1 receive bonus points?

2 A. Yes, hypothetically.

3 Q. And could I redeem those bonus points

4 for cash or check?

5 A. I believe so but I'm not sure.

6 Q. How were you informed that the company

7 was no longer going to offer the three months

8 free service of the type that Ms. Porter

9 offered? Was that in a memo or conversation or

10 meeting, do you recall?

11 A. I don't recall. It was one of those,

12 but I -- really, I don't recall.

13 Q. Do you know approximately when you

14 learned about that, that you would were no

15 longer making that offer?

16 A. No, I really don't.

17 Q. Do you know whether or not this

18 offering was withdrawn throughout the region or

19 just in Tennessee?

20 A. My understanding is it's been withdrawn

21 beyond Tennessee, throughout the region.

22 Q. Is BellSouth Select a regionwide

23 program, to your knowledge?

24 A. Yes.

25 Q. Ms. Porter testified earlier that when

1 she was making this type of offer that she was
2 targeting non-BellSouth customers. Is that
3 consistent with the parameters in which she was
4 operating at that time? Were those her
5 instructions from BellSouth, to target
6 non-BellSouth customers?

7 A. For this offer?

8 Q. Yes.

9 A. Yes.

10 Q. Do you know when that particular --
11 this particular offer that was targeting
12 non-BellSouth customers, do you know when it
13 was first offered in Tennessee? Let me -- I'm
14 sorry. She testified earlier that it was
15 offered in the Memphis area back in April. Is
16 that consistent with your recollection?

17 A. I recall it was offered in Memphis
18 first, but I thought it was in the May time
19 frame.

20 Q. Was it then discontinued for a period
21 of time or was it offered throughout the
22 summer?

23 A. I don't know.

24 Q. The date on there is what? What was
25 the date of that offer?

1 A. September 5th.

2 Q. So you don't have any knowledge as to
3 whether or not the program continued from May
4 through September?

5 A. I really don't know.

6 MR. WALKER: That's all I have,
7 Patrick. Nanette is going to ask a couple of
8 questions.

9 EXAMINATION

10 BY MS. EDWARDS:

11 Q. Hello, how are you doing?

12 A. Fine.

13 Q. Mr. Scott Davis is a direct report to
14 you; is that correct?

15 A. That's correct.

16 Q. What does C-A-M stand for?

17 A. Competitive assessment manager.

18 Q. And is that Mr. Davis' title?

19 A. Yes.

20 Q. In some of the documentation that we've
21 seen, we've seen the term "specialist."

22 Is Mr. Davis a specialist?

23 A. I would have to really look at the
24 document. We've got a lot of different
25 specialists.

1 MS. EDWARDS: Patrick, at this
2 point -- what was the understanding you had
3 with regard to documents?

4 MR. WALKER: If it's a proprietary
5 document, it will be handled by putting the
6 entire deposition under seal and then BellSouth
7 will later submit a redacted version of the
8 deposition. If it is a nonproprietary
9 document, we have no -- I guess that would be
10 irrelevant.

11 MR. TURNER: I agree.

12 MR. WALKER: Patrick, Nanette has
13 a document that is marked proprietary, it's an
14 excerpt from the BellSouth Select Program
15 Training Guide, and I guess she can go ahead
16 and ask the questions. And from this point on,
17 unless you say otherwise, we'll consider the
18 deposition proprietary.

19 MR. TURNER: Thank you.

20 MR. WALKER: Let me quickly add
21 that if you decide, after hearing her question,
22 that it's not really -- you know, she does not
23 intend to introduce the document --

24 MR. TURNER: You're reading my
25 mind, Henry, it might not be necessary, but

1 just in case something happens, I forget, let's
2 treat it as proprietary for now, but we'll
3 address that in a minute.

4 MR. WALKER: Okay.

5 MS. EDWARDS: Just for identifica-
6 tion, the document, it's the first page of
7 BellSouth Select Program Training Guide, and I
8 will show it to Guy Hicks. Our Bates stamp
9 number is 845.

10 MR. TURNER: We didn't Bates-stamp
11 them, but if Guy can look at it and, if
12 necessary, we might get you all to fax it up
13 here after the deposition, but for now, let's
14 keep going.

15 MR. HICKS: Michael and I are
16 looking at it now.

17 BY MS. EDWARDS:

18 Q. If you look at the bottom of the page
19 it refers to a specialist.

20 And Mr. Sisk, my question is, would
21 Mr. Scott Davis be the specialist that that
22 document is referring to?

23 A. Let me read it.

24 Q. Sure.

25 MR. TURNER: Michael, if you need

1 additional pages of that document to put it in
2 context, you're welcome to ask for it from
3 Ms. Edwards.

4 MS. EDWARDS: Yes. In fact -- and
5 I'm already going ahead and pulling out Bates
6 Stamp 1094 -- it again refers to a specialist.
7 Now this is in the context of an e-mail, but I
8 do have the rest of that training guide as
9 well. Actually the training guide only has
10 that one page, I take that back.

11 THE WITNESS: I can answer your
12 question.

13 BY MS. EDWARDS:

14 Q. Okay.

15 A. Scott Davis is not the specialist
16 referred to in this document.

17 Q. Do you know who would be?

18 A. I presume so, I don't know.

19 Q. I guess my question is, who would be
20 the specialist assigned in your territory for
21 handling what that document describes?

22 A. I don't believe this document is
23 applicable to people in my territory.

24 Q. Okay. Could you look at the other
25 document, the e-mail, which is Bates-stamped

1 1094.

2 MS. EDWARDS: Is that right, Guy?

3 MR. HICKS: That's correct. And
4 just for the record, that document is also
5 marked proprietary, it's an e-mail, and we'll
6 let Mr. Sisk read it.

7 BY MS. EDWARDS:

8 Q. Have you had a moment to review the
9 e-mail?

10 A. Yes.

11 Q. My question is --

12 MR. TURNER: Ms. Edwards, I'm
13 sorry, just for the record, can you make the
14 first one maybe Exhibit 1 and the second one
15 Exhibit 2? If we can do that, I think that
16 will go a long way toward us not having to make
17 anything in the transcript proprietary.

18 MS. EDWARDS: Okay, I can do that.

19 The first document is again
20 Bates-stamped 845 and it's entitled "BellSouth
21 Select Business," and I guess that would be
22 Exhibit 1.

23 And then the second one is stamped
24 1094 and it's an e-mail from Miss Jane Krauth,
25 K-R-A-U-T-H, it's dated October 17th, 2001, and

Vowell & Jennings, Inc. (615) 256-1935

1 it's to Mr. George Sanders, S-A-N-D-E-R-S. And
2 that will be Exhibit 2.

3 (Marked Exhibit Nos. 1 and 2.)

4 BY MS. EDWARDS:

5 Q. And my question is, in that e-mail it
6 references a specialist; correct?

7 A. Yes.

8 Q. Do you know to whom they would be
9 referring, to whom Mr. George Sanders was
10 referring?

11 A. I believe that George calls his
12 salespeople -- which are a different
13 organization from me, so that's not my speaking
14 from what I know -- specialists.

15 Q. What is Mr. Sanders' sales organiza-
16 tion?

17 A. He runs Small Business call centers for
18 Tennessee-Kentucky. Inbound calls.

19 Q. So these are inbound-only calls?

20 A. That's -- I'm sure they make outbound
21 phone calls at some point, but George's primary
22 purpose is to receive inbound calls from
23 customers.

24 Q. Is this also known as the win-back
25 center?

1 A. No.

2 Q. Okay. And George's offices, he has an
3 office here in Tennessee?

4 A. He has an office in Tennessee, yes.

5 Q. In Nashville?

6 A. I don't know.

7 Q. But Mr. George Sanders, when he was
8 referring to specialists, he was referring to
9 his employees, you believe?

10 A. I can't speak for him, but I believe
11 that would be the case.

12 Q. Is Mr. Sanders like your -- at the same
13 level as you, is he a vice president?

14 A. Yes.

15 Q. Okay. I got that right, your title is
16 vice president?

17 A. Assistant VP.

18 Q. Assistant vice president, sales, for
19 midmarkets?

20 A. Yes.

21 Q. And Mr. George Sanders would be
22 assistant vice president for?

23 A. Mass market.

24 Q. What does the term mass market mean,
25 Small Business?

1 document we're speaking about a part of the
2 record. But I think that we could designate
3 the document and the document itself for 1 and
4 2, they are the only thing about that
5 discussion that was proprietary. And that way,
6 the transcript itself would not be proprietary,
7 but I do think it's necessary to put the
8 document in.

9 MR. WALKER: Okay.

10 MS. EDWARDS: And we're fine with
11 that.

12 MR. TURNER: As far as No. 3,
13 frankly, I'm concerned that some of that
14 discussion may have in effect been disclosing
15 the contents of the proprietary contents
16 confidential document. Let me suggest this, if
17 the court reporter could just mark that portion
18 of the transcript beginning with when Exhibit 3
19 was introduced, if we can all agree to treat
20 that as proprietary and then we can redact
21 anything in that discussion that may have been
22 proprietary. That would prevent us from having
23 to mark the entire transcript as proprietary.
24 But it would allow me to look through and make
25 sure that we protect anything in that

1 discussion.

2 MR. WALKER: Okay.

3 MR. TURNER: Okay, thank you all.

4 And if you can give me about three minutes,
5 I'll organize my thoughts and get through with
6 this.

7 MR. WALKER: All right.

8 (Brief respite.)

9 MR. HICKS: We're ready at this
10 end.

11 **E X A M I N A T I O N**

12 BY MR. TURNER:

13 Q. Mr. Sisk, this is Patrick Turner, I
14 just have one or two questions for you.

15 You mentioned Mr. Sanders and you
16 mentioned that he has an office in Tennessee?

17 A. Yes.

18 Q. Do you know, is that his primary
19 office?

20 A. No, I don't know. I know that he's got
21 several offices, some in Tennessee. But I'm
22 not familiar exactly with where his primary
23 office would be. George himself sits in
24 Louisville, Kentucky.

25 MR. TURNER: Okay. That's all I

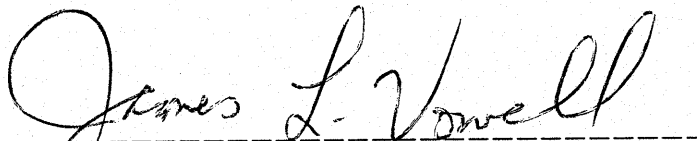
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have.

MR. WALKER: Okay. I think this
witness is excused.

FURTHER DEPONENT SAITH NOT.

SWORN to before me when taken,
January 14, 2002

A handwritten signature in cursive script that reads "James L. Vowell". The signature is written in dark ink and is positioned above a horizontal dashed line.

James L. Vowell
Notary Public
State of Tennessee At Large
My Commission Expires: 11/30/02